

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

BENNY LEE NUSSBAUMER,

Plaintiff,

v.

**COMMISSIONER SOCIAL SECURITY
ADMINISTRATION,**

Defendant.

MOSMAN, J.,

No. 6:15-cv-01473-YY

OPINION AND ORDER

On October 4, 2016, Magistrate Judge Youlee You issued her Findings and Recommendation (“F&R”) [24], recommending that the Commissioner’s decision to deny Mr. Nussbaumer’s application for Disability Insurance Benefits should be REVERSED and REMANDED for further proceedings. The Commissioner filed its Objections to the F&R [26] on October 20, 2016, and Mr. Nussbaumer filed his Response to the Commissioner’s Objections [27] on November 3, 2016.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or

recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon careful review, I agree with Judge You's recommendation and I ADOPT the F&R [24] as my own opinion.

IT IS SO ORDERED.

DATED this 3rd day of January, 2017.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
Chief United States District Judge